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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/731,333 | 12/09/2003 | Kenneth Nathan Price | 9133M | 5011 |

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THE PROCTER & GAMBLE COMPANY
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| EXAMINER | |
|---|---|
| MRUK, BRIAN P | |
| ART UNIT | PAPER NUMBER |
| 1751 | |

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/731,333 | PRICE ET AL. | |
| | Examiner | Art Unit | |
| | Brian P. Mruk | 1751 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *27 July 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7/27/04 & 1/29/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Objections*

1. Claim 18 is objected to because of the following informalities: In instant claim 18, the phrase "selected from the group consisting of: selected from the group consisting of" should be amended to recite "selected from the group consisting of:" for grammatical purposes. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-8 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The phrase "method according to claim 3" recited in instant claim 2 renders the claim vague and indefinite, since claim 3 occurs after claim 2. The examiner suggests that instant claim 2 should be amended to depend from claim 1. Appropriate correction and/or clarification is required.

5. Claim 19 recites the limitation "wherein the bleaching agents" in line 1. There is insufficient antecedent basis for this limitation in the claim. Specifically, the examiner

notes that instant claim 9, from which claim 19 depends from, does not contain the term "bleaching agents". The examiner suggests that instant claim 19 should be amended to depend from claim 18 to provide proper antecedent basis. Appropriate correction and/or clarification is required.

6. Instant claims 3-8 are rejected under 35 U.S.C. 112, second paragraph, for being dependent upon a claim with the above addressed 112 problem (i.e. claim 2).

### *Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1-20 are rejected under 35 U.S.C. 102(a,e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Roberts et al, US 2002/0077264.

Roberts et al, US 2002/0077264, discloses a fabric cleaning or dishwasher cleaning composition comprising 3-40% by weight of a bleaching agent (see page 6, paragraph [0056]), 0.1-15% by weight of a builder (see pages 8-9, paragraph [0077]), and 0.01-10% by weight of a soil release or fabric integrity agent, such as an anionic cellulose material that contains both sulphonate and carboxylate moieties (see page 9, paragraph [0085]), per the requirements of the instant invention. Also, note that Roberts et al discloses that the detergent composition contains calcium and magnesium ions (see page 9, paragraph [0086]). Specifically, note Examples 1-2. The examiner asserts that the detergent products disclosed in Examples 1-2 of Roberts et al would

inherently meet the Test Protocol I requirement of the instant invention, since the detergent products disclosed in Examples 1-2 of Roberts et al contain all of the required components in the amounts required in the instant claims, absent a showing otherwise. Furthermore, the examiner asserts that "The fact remains that one of ordinary skill informed by the teachings of Roberts et al would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant's composition per se claims are directed." *In re Sivaramakrishnan, 213 USPQ 441 (CCPA 1982).* Therefore, instant claims 1-20 are anticipated by Roberts et al, US 2002/0077264.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions, wherein the composition is used as a fabric cleaning or dishwasher cleaning composition. Furthermore, the examiner asserts that "Mere fact that a reference suggests multitude of possible combinations does not in and of itself make any one of those combinations less obvious." *Merck v. Biocraft, 10 USPQ2d 1843 (Fed. Cir. 1989).*

10. Claims 1-3, 6-11 and 14-20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kong, U.S. Patent No. 5,104,584.

Kong, U.S. Patent No. 5,104,584, discloses a fabric cleaning composition comprising an alkali metal carbonate builder (see col. 3, lines 33-68), 1-20% by weight of a sulfonated lignin derivative (see col. 4, lines 1-64), and 0.05-5% by weight of a bleaching agent (see col. 6, lines 11-41), per the requirements of the instant invention. Also note that the detergents disclosed by Kong contain calcium and magnesium ions (see col. 3, lines 36-39). Specifically, note Example A and the Examples in Tables I-II. The examiner asserts that the detergent products disclosed in the Examples of Kong would inherently meet the Test Protocol I requirement of the instant invention, since the detergent products disclosed in the Examples of Kong contain all of the required components in the amounts required in the instant claims, absent a showing otherwise. Furthermore, the examiner asserts that "The fact remains that one of ordinary skill informed by the teachings of Kong would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant's composition per se claims are directed." *In re Sivaramakrishnan, 213 USPQ 441 (CCPA 1982)*. Therefore, instant claims 1-3, 6-11 and 14-20 are anticipated by Kong, U.S. Patent No. 5,104,584.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions, wherein the composition is used as a fabric cleaning composition. Furthermore, the examiner asserts that "Mere fact that a reference

suggests multitude of possible combinations does not in and of itself make any one of those combinations less obvious." *Merck v. Biocraft, 10 USPQ2d 1843 (Fed. Cir. 1989).*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00AM-5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BPM
Brian P Mruk
February 27, 2006

Brian P. Mruk
Brian P Mruk
Primary Examiner
Art Unit 1751